

REMARKS

In response to the Notice to File Missing Parts mailed March 2, 2004, the period for response having been extended to June 2, 2004, by a request for extension of one (1) month and fee payment filed concurrently herewith, Applicants submit herewith (1) the statutory basic filing fee of \$770, the late filing fee surcharge of \$130, and an additional claim fee of \$678, calculated based on the claim amendments made herein; (2) a Request for Transfer of Form Under 37 C.F.R. § 1.821(e), requesting that the computer readable copy of the Sequence Listing on file in Parent Application No. 09/151,259 be used in the instant application; and (3) a Statement to Support Filing and Submission in Accordance with 37 C.F.R. §§ 1.821-1.825, stating that, on information and belief, the paper copy of Sequence Listing filed July 22, 2003, and the computer readable form of the Sequence Listing that was filed in parent application No. 09/151,259, filed September 10, 1998, are identical, and do not add new matter.

A. Preliminary Amendment

The listing of claims filed herewith cancels claims 1-47 without prejudice to or disclaimer of the subject matter recited therein, and adds new claims 48-76. Claims 48-76 are pending in the application.

New claims 67-74 have been copied from United States Patent No. 6,569,997 B1 (the "997 patent"), a copy of which is attached hereto for the Examiner's convenience.¹ The '997 patent issued on May 27, 2003. Accordingly, applicants have filed claims

1. Applicants note that claims 67-74 refer to SEQ ID NO:8, while the claims of the '997 patent refer to SEQ ID NO:2. In each case, these sequence identification numbers refer to the human 4-1BB protein.

67-74 within the one year time period prescribed by 35 U.S.C. § 135(b)(1). Applicants are currently reviewing their specification and the '997 patent for possible interference.

New claims 75 and 76 have been copied from United States Patent Application Publication No. US 2003/0100745 A1 (the "745 application"), a copy of which is attached hereto for the Examiner's convenience. The '745 application published on May 29, 2003. Accordingly, applicants have filed claims 75 and 76 within the one year time period prescribed by 35 U.S.C. § 135(b)(2). Applicants are currently reviewing their specification and the '745 application for possible interference.

New claims 48-66 have not been copied directly from either the '997 patent or '745 application. However, the Office may conclude that some or all of claims 48-66 may interfere with at least one claim of the '997 patent and/or '745 application.

New claims 48-76 find support throughout the application, such as at the locations indicated in the following table.

Claim	Example of Support in Application
48	Page 32, line 36 – page 33, line 3; page 34, lines 26-34.
49	Page 34, lines 28-30.
50	Page 25, lines 13-15; page 26, lines 3-9; page 6, lines 1-5.
51	Page 4, lines 23-28; page 5, lines 10-13; page 6, lines 1-5.
52	Page 34, lines 26-34.
53	Page 34, lines 26-34.
54	Page 4, lines 23-28; page 5, lines 10-13; page 6, lines 1-5.

Claim	Example of Support in Application
55	Page 4, lines 23-28; page 5, lines 10-13; page 6, lines 1-5.
56	Page 34, lines 26-34.
57	Page 34, lines 26-34.
58	Page 34, lines 26-34.
59	Page 34, lines 26-34.
60	Page 34, lines 26-34.
61	Page 32, line 10 – page 23, line 1.
62	Page 32, line 10 – page 23, line 1.
63	Page 32, line 10 – page 23, line 1.
64	Page 32, line 10 – page 23, line 1.
65	Page 32, line 10 – page 23, line 1.
66	Page 32, line 10 – page 23, line 1.
67	Page 32, line 36 – page 33, line 3; page 34, lines 26-34.
68	Page 32, line 36 – page 33, line 3; page 34, lines 26-34.
69	Page 34, lines 30-34.
70	Page 34, lines 30-34.
71	Page 34, lines 26-30.
72	Page 34, lines 26-30.
73	Page 32, line 10 – page 23, line 1.
74	Page 32, line 10 – page 23, line 1.
75	Page 25, line 11 – page 26, line 9; page 32, line 36 – page 33, line 3.

Claim	Example of Support in Application
76	Page 32, line 10 – page 23, line 1.

Applicants have amended the Title and Abstract to be more descriptive of the general subject matter of the new claims. Neither the Title nor the Abstract are intended to limit applicants' invention.

Applicants courteously request entry of this Preliminary Amendment prior to examination of this application.

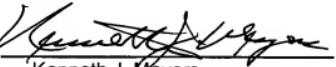
If there is any fee due in connection with the filing of this Preliminary Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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GARRETT & DUNNER, L.L.P.

Dated: May 26, 2004

By:


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Attachments: US 6,569,997 B1
US 2003/0100745 A1
New Abstract